

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into as of this 26th day of June 2023, by and between the **CITY OF CAPE CORAL**, a municipal corporation organized and existing under the laws of the State of Florida (the "City") and **ALEKSANDR BOKSNER** (The "Employee" or "Boksner") (each, a "Party" and collectively, the "Parties").

WHEREAS, on June 14, 2023, the Mayor, and City Council selected Boksner as City Attorney of the City, pending contract negotiations; and

WHEREAS, The City, acting by and through its City Council desires to employ Boksner as its City Attorney on the terms and conditions set forth in this Agreement, and Boksner desires to be employed as the City Attorney on those same terms and conditions.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Recitations. The Parties agree that the recitations above are true and correct and are incorporated as if fully set forth here.
2. The City Agrees to employ Boksner as its City Attorney and Boksner agrees to be so employed. Boksner will devote his full working time to these duties as City Attorney and will not accept or perform any other employment, paid or unpaid, while he is employed as City Attorney, except as expressly set forth herein or expressly agreed to by the City Council.

SECTION 1 - EFFECTIVE DATE AND TERM

This Agreement shall have an initial term of three (3) years, commencing on August 14, 2023 (herein identified as the "Commencement Date" or "Employment Date"), and expiring at midnight on August 13, 2026. Thereafter, this Agreement shall be automatically renewed for successive one (1) year terms unless either party gives notice of non-renewal at least three (3) months before the expiration of the current term. The Parties may, as deemed appropriate and necessary, modify the provisions of this Agreement during the initial term or renewal years.

SECTION 2 - CITY ATTORNEY DUTIES

The City shall employ Boksner as City Attorney to perform the functions and duties specified in the City's Charter, Code of Ordinances, and other legally permissible and proper duties and functions as assigned by the City Council. The Employee shall devote his full time and attention on behalf of the City and shall not engage in any other employment outside of his responsibilities as an employee of the City. The City shall have the power to determine the duties and responsibilities to be assigned to the Employee by the City Council. The Employee reports directly to the City Council and will be directly responsible to the City Council throughout the term of this Agreement.

SECTION 3 - ETHICS OF EMPLOYEE

The Employee shall be subject to the Florida Statutes, Chapter 112, Part III, Code of Ethics for Public Officers and Employees, and any established City Policies. Additionally, the Employee shall be held to the standard set forth by the Florida Bar, and the Rules Regulating the Florida Bar and Regulation of Lawyer Conduct throughout the term of this Agreement.

SECTION 4 - COMPENSATION

The City shall provide compensation to the Employee for performing the duties and services of City Attorney pursuant to this Agreement, which compensation shall be an annual base salary of \$247,500. The compensation set forth herein shall commence on the first day of employment (Commencement Date) or such other date that may be agreed upon by the Parties. This base salary shall likewise be paid in equal installments according to the usual payroll practices of the City for its employees. After 12 months from the date of this Agreement, and every 12 months thereafter, City Council shall review the Employee's performance. The City Council may consider an increase in Employee's compensation based on the Employee's yearly evaluation, the amount of which, if any, shall be approved by a majority vote of the City Council.

4.1 Insurance. The City shall pay the full amount of premiums for the City-offered group medical plan selected by Boksner, exclusively for the benefit to himself and no other eligible dependents. Boksner will be able to participate in any dental or vision insurance of the City, which insurance group rates will be paid consistent with other general employees of the City. The City will pay the full amount of premiums for the City-offered life insurance policy. Boksner may (or, if participation is mandatory, shall) participate in other City-offered insurance and benefits for which he is eligible on the terms applicable to general employees.

4.2 Leave. Boksner shall be entitled to be credited 200 hours of annual leave upon the Commencement Date of this Agreement, and thereafter Boksner shall continue to accrue annual leave as provided for other general employees of the City.

4.3 Deferred Compensation. Boksner is a participant in the Section 457 deferred compensation plan (the "Plan"). Within fourteen (14) days following the Employment Date, the City shall make a lump sum contribution on Boksner's behalf into the Plan, in the amount of \$10,000, which contribution is in addition to the annual base salary. The Parties may consider, pursuant to Boksner's yearly performance review and evaluation, a subsequent contribution consistent with, and according to, the terms of the Plan and applicable laws.

SECTION 5 - NON-COMPENSATION BENEFITS, EXPENSES AND REIMBURSEMENTS

The City shall provide the Employee those non-compensation benefits, expenses, and reimbursements now or hereafter provided to other general regular non-bargaining City employees.

including, but not limited to paid holidays, annual leave, health insurance, life insurance, and disability insurance. The City will pay for, reimburse, or otherwise provide for the items set forth in this Section 5. These items are paid for, reimbursed, or otherwise provided because they inure to the benefit of the City and do not constitute compensation, wages, salary, earnings, or remuneration to Boksner for any purpose whatsoever.

5.1 Information and Communication Technology Expenses. The City will provide Boksner with adequate and reasonable information and communications hardware, software, and services to support him in the performance of his duties as the City Attorney, which expenses shall be pursuant to the approved budget for the Office of the City Attorney.

5.2 Subscriptions, Memberships, and Fees. Boksner may include, as an expense item in the budget of the Office of the City Attorney, an amount to be used to pay for such reasonable subscriptions, memberships, and fees and other similar costs, such as travel and lodging, as may be incurred for development and advancement related to, in support of, and inuring to the benefit of the City.

5.3 The Employee may enroll in the City of Cape Coral Municipal General Employees Retirement Plan, or in lieu of, the Employee may be enrolled in the City of Cape Coral Defined Contribution Plan for Management Employees. The City shall pay into the plan a sum equal to the percentage of salary contributed for other general regular non-bargaining employees participating in such plan. Employee shall be responsible for an amount equal to the percentage of salary contributed by other general regular non-bargaining employees. Currently, the City's contribution to the Plan is 12% of the participant's salary, and the general non-bargaining employees' contribution is 8% of his or her salary.

5.4 Mobile Telephone Allowance. The City will pay Boksner a mobile telephone allowance in the amount of \$1,200 annually, paid in proportionate installments to reimburse him for the use of his personal mobile telephone for the benefit of the City.

SECTION 6 - RELOCATION EXPENSES

A. The Employee agrees that he will utilize best efforts and seek to establish residency within the City of Cape Coral's territorial limits within 60 days of the Employment Date, but the permanent establishment of a primary residence within the City's territorial limits are neither mandatory nor required pursuant to the City's Charter. Notwithstanding the foregoing, Boksner has agreed to establish his primary residence in Lee County or Charlotte County.

B. The City shall pay the Employee a relocation allowance in the amount of \$6,500. The relocation allowance shall be paid to the Employee within 30 days of the date upon which this Agreement has been fully executed by the Parties. Should the Employee resign before August 14, 2026, the Employee shall reimburse the City the \$6,500 paid pursuant to this Section. The Employee agrees that any amount owed pursuant to this paragraph may be deducted from any

monies owed by the City to the Employee upon the termination of this Agreement.

SECTION 7- OTHER EXPENSES

A. The City shall pay all other reasonable business expenses of the Employee in accordance with the City's general policies, including but not limited to membership dues required or recommended by the Florida Bar Association. Additionally, the City shall pay or reimburse the Employee for those matters that have not been specifically set forth or identified within Section 5, herein:

- 7.1 Reasonable professional dues and subscriptions.
- 7.2 Educational expenses incurred to maintain or improve Employee's professional skills and expenses for travel, room, and meals while attending professional conferences, workshops, conventions, and seminars. All reimbursements will be provided and governed by existing city policies.
- 7.3 The cost of any fidelity or other bonds that are, or may be required of, the Employee while performing the duties of this position.
- 7.4 Any other expenses approved by the City Council.

B. Expenses shall not exceed the amount approved by City Council in the annual budget.

SECTION 8 - TERMINATION

A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate this Agreement with or without cause at any time. In the event of termination without cause by the City Council, which shall include but not be limited to a request from the City Council that Employee resigns, Employee shall receive 16 weeks base salary as severance pay in a lump-sum payment. The Parties may consider, pursuant to Boksner's yearly performance review and evaluation, a modification of the weeks of compensation for severance pay to the maximum amount permitted pursuant to Section 215.425 of the Florida Statutes. No portion of the severance pay shall be included in the salary for the purpose of calculating payments to a defined contribution plan. In exchange for the severance, the Employee waives any rights under the City Charter with a termination without cause, including, but not limited to, a preliminary resolution notice and hearing.

B. If an indictment charges the Employee, a piece of information, or similar document with a felony, misdemeanor, or a crime involving moral turpitude, driving under the influence while on City business, or unlawful possession of a controlled substance, the City Council, in its sole discretion, may suspend the Employee without pay or benefits pending disposition of the charges. Upon a conviction of any such charge, regardless of whether adjudication is withheld, at the sole

option of the City Council, the Employee may be terminated without benefits or severance pay. Employee hereby waives any rights under the City Charter, under such termination, including but not limited to preliminary resolution notice and hearing. Upon the dismissal of such charges or upon the Employee being acquitted or found not guilty of same, the Employee will be immediately reinstated and entitled to full back pay and all other accrued benefits.

C. When deemed necessary or appropriate by the City Council, the Employee may be suspended from his duties with pay until the matters that gave rise to the suspension are resolved to the satisfaction of the Council. Employee waives any rights under the City Charter due to any such suspension.

D. In addition to the provision of paragraph B of this Section, this Agreement may be terminated by the City Council for cause, as provided herein. Cause shall be defined for the purposes of this Agreement to include, but not be limited to:

1. A disregard for the standards of professional conduct expected of a city attorney, including, but not limited to, the requirements found in Florida Statutes referenced in Section 3 of this Agreement.
2. A finding of a violation by the Florida Bar.
3. A material breach of any of the Employee's obligations under this Agreement.
4. Conduct or actions, either professionally or personally, that would adversely reflect upon the Employee's competency to perform the duties of the City Attorney or to maintain public confidence in City Government; or
5. Neglect of duties or insubordination.

E. If the Employee is terminated for cause pursuant to paragraphs B and/or D, the city will have no obligation to pay severance pay or post-termination benefits as outlined in this Agreement.

F. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from his position; however, he shall give the City written notice at least Ninety (90) days before the effective date of such resignation unless this notice requirement is waived in writing by the City.

If the City Council terminates Employee for cause pursuant to paragraph D of this Section, the termination shall be in accordance with the notice and hearing requirements outlined in the City Charter.

G. Upon any termination of this Agreement, including but not limited to resignation by

Employee, Employee shall be entitled to payment for accrued but unused annual leave.

SECTION 9 - INDEMNIFICATION

A. To the extent allowed by law, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability claim, demand, criminal or ethical complaint, or any other legal action arising from any act, either alleged or actual, or omission, which may occur within the scope of Employee's employment and performance of the Employee's duties as City Attorney provided, however, that said the complaint is successfully defended against. The city may compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered thereon, together with attorney's fees associated therewith, if any.

B. In the event it is determined by a court of competent jurisdiction that such claim or complaint resulted from willful malfeasance or criminal misconduct by Employee, or in the event the Employee enters a plea of nolo contendere regardless of whether adjudication is withheld. The complaint or claim shall be deemed to have been not successfully defended against, and this indemnification shall not be applicable. Furthermore, if the City has expended funds for the defense of the employee against any complaint or claim that is not successfully defended, the employee shall be responsible for reimbursing the City for all such costs and fees expended by the City.

SECTION 10 - MISCELLANEOUS PROVISIONS

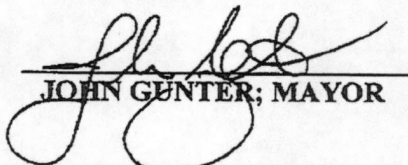
A. This Agreement shall be construed and enforced pursuant to the laws of the State of Florida. For any litigation involving this Agreement, the parties agree to a venue in Lee County, Florida.

B. This Agreement constitutes the entire Agreement between the parties.

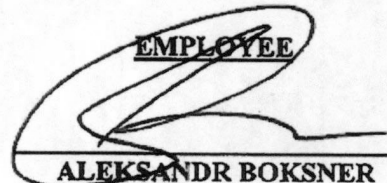
IN WITNESS WHEREOF, the parties have executed this Agreement in the City of Cape Coral, Lee County, Florida, on the day and year first written above.

CITY OF CAPE CORAL

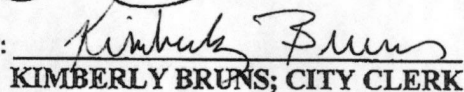
By:


JOHN GUNTER; MAYOR

EMPLOYEE


ALEKSANDR BOKSNER

ATTEST:


KIMBERLY BRUNS; CITY CLERK